

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CARLOS RODRIQUEZ and
COLLEEN RODRIQUEZ

v.

CITY OF PHILADELPHIA

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CIVIL ACTION

NO. 07-cv-04021-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

December 9, 2008

Plaintiff Carlos Rodriguez was employed as a Philadelphia police officer, assigned to work as a cell block attendant at the Community Corrections Center, in the 9th District. On September 7, 2007, he was viciously assaulted by a prisoner, receiving disabling injuries. He and his wife have brought this § 1983 action against the City of Philadelphia, for damages associated with the injuries he sustained. The City of Philadelphia, the only named defendant, has filed a motion for summary judgment. For several reasons, that motion must be granted.

The facts of the case are indeed unfortunate. The Police Department was shorthanded, and, on the date in question, did not assign a sufficient number of cell block attendants. At the time of the assault, plaintiff was the only officer present in the cell block, which included cell number 8, assigned to house prisoners who seemed likely to attempt suicide, or were

otherwise likely to misbehave. Thus, it seems clear that Police Department rules and regulations, and orders from superior officers, were not being observed. Indeed, had prevailing orders been implemented, there would have been at least four officers on duty in the cell block, and, presumably, plaintiff would not have suffered injury. But plaintiff can recover damages in this action only by establishing that his constitutional rights were violated, and that the violation was attributable to some established policy or practice of the City of Philadelphia. Monell v. New York City Dep't of Social Services, 436 U.S. 658 (1978); Andrews v. City of Philadelphia, 895 F.2d 1469 (3d Cir. 1990). Moreover, a government employer owes no constitutional obligation to provide its employees with minimum levels of safety and security in the workplace. Collins v. City of Harker Heights, 503 U.S. 115, 127 (1992); Schieber v. City of Philadelphia, 320 F.3d 409, 417-18 (3d Cir. 2003).

On the undisputed facts of this case, the City of Philadelphia cannot be held liable to plaintiffs.

An Order follows.

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ORDER

AND NOW, this 9th day of December 2008, upon
consideration of the defendant's motion for summary judgment, and
the response, IT IS ORDERED:

1. JUDGEMENT is ENTERED in favor of the defendant,
City of Philadelphia, and against the plaintiffs.

2. The Clerk is directed to close the file.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.